

रजिस्टर्ड नं० पी० एच० एम० 14.

May to Dec —



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बुधवार, 1 मई, 1974/ 11, वैशाख 1896

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATIONS

Simla-4, the 3rd April, 1974

No. 10-5/74-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, of the Himachal Pradesh Legislative Assembly,

the Himachal Pradesh General Sales Tax (Amendment) Bill, 1974 (Bill No. 7 of 1974) after having been introduced in the Assembly on 3rd April, 1974 is hereby published in the Gazette.

S. S. KANWAR,
Secretary.

Bill No. 7 of 1974.

**THE HIMACHAL PRADESH GENERAL SALES TAX
(AMENDMENT) BILL, 1974**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh General Sales Tax Act, 1968 (Act No. 24 of 1968).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh General Sales Tax (Amendment) Act, 1974.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In sub-section (1) of section 6 of the Himachal Pradesh General Sales Tax Act, 1968 (hereinafter referred to as the principal Act), for the word "six" the word "seven", shall be substituted.

Amendment of section 6.

3. For Schedule A to the principal Act, the following Schedule shall be substituted, namely:—

Substitution of Schedule A.

"SCHEDULE 'A'

[See the first proviso to sub-section (1) of section 6]
LIST OF LUXURY GOODS

Serial No.	Description of goods
1.	Motor Vehicles, including accessories and chassis of motor vehicles, motor tyres and tubes and spare parts of motor vehicles.
2.	Motor cycles and motor cycle combinations, motor scooters, motorettes and accessories, tyres, tubes and spare parts thereof.
3.	Refrigerators and air-conditioning plants and component parts thereof.
4.	Wireless reception instruments and apparatus, radios and radio-gramophones, electrical valves, accumulators, amplifiers and loud-speakers and spare parts and accessories thereof.
5.	Cinematographic equipment including cameras, projectors and sound recording and reproducing equipments, lenses, films and parts and accessories required for use therewith.
6.	Photographic and other cameras and enlargers, lenses, films and parts, papers and cloth and other parts and accessories required for use therewith.
7.	All clocks, time-pieces and watches and parts thereof.
8.	All furniture of iron and steel including safes and almirahs.
9.	All furniture other than that of iron and steel.
10.	All arms including rifles, revolvers, pistols and ammunition.
11.	Cigarette cases and lighters.

Serial No.	Description of goods
12.	Dictaphone and other similar apparatus for recording sound and spare parts thereof.
13.	Sound transmitting equipment including telephones and loud-speakers and spare parts thereof.
14.	Typewriters, tabulating machines, calculating machines and duplicating machines and parts thereof.
15.	Binoculars, telescopes and opera glasses.
16.	Gramophones and component parts thereof and records.
17.	Cosmetics, perfumery and toilet goods but not including tooth-paste, tooth-powder, soap and kum-kum.
18.	Electrical appliances excluding electric bulbs, electric motors, motor starters and mono-block, pumping sets.
19.	Pile carpets.
20.	Cutlery (Table).
21.	Vacuum flasks.
22.	Sanitary goods and fittings.
23.	Leather goods but not including footwear.
24.	Glassware, Glazedware and Chinaware including crockery.
25.	Liquor (Foreign liquor and Indian made foreign liquor including wines and beer).
26.	Picnic sets.
27.	Foam rubber products.
28.	Articles made wholly or principally of stainless steel but not including surgical instruments.
29.	Perambulators.
30.	Furs and articles of personal or domestic use made from furs.
31.	Plastic, celluloid, bakelite goods and goods of similar substances of the value exceeding fifty rupees per piece.
32.	All tiles including mosaic tiles (but not including roofing tiles), laminated sheets and sunmica sheets".

STATEMENT OF OBJECTS AND REASONS

With a view to have uniform sales-tax policy as recommended by the Regional Council for Sales Tax and Excise Duties for the Northern Zone and augmenting revenue, it is proposed to empower the Government to raise the rates of sales-tax on general goods from 6% to 7% and enlarge the list of luxury goods. The Bill seeks to achieve this object.

SIMLA:
The 3rd April, 1974.

LAL CHAND PRARTHII,
Minister-in-charge.

FINANCIAL MEMORANDUM

The increase in the rate of sales-tax and enlargement of list of luxury goods through this Bill will provide an additional revenue of Rs. 30 lakhs to the State.

MEMORANDUM ON DELEGATED LEGISLATION

Nil

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[The Excise and Taxation Department File No. 1-15/73-E.&T. (Sectt.)]

The Governor of Himachal Pradesh having been informed of the subject matter of the Himachal Pradesh General Sales Tax (Amendment) Bill, 1974 recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly of Himachal Pradesh.

Simla-4, the 3rd April, 1974

No. 10-6/74-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, the Himachal Pradesh Tenancy and Land Reforms (Amendment) Bill, 1974 (Bill No. 6 of 1974) after having been introduced in the Assembly on 3rd April, 1974 is hereby published in the gazette.

S. S. KANWAR,
Secretary

Bill No. 6 of 1974.

THE HIMACHAL PRADESH TENANCY AND LAND REFORMS (AMENDMENT) BILL, 1974

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

*to amend the Himachal Pradesh Tenancy and Land Reforms Act, 1972
(Act No. 8 of 1974).*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Tenancy and Land Reforms (Amendment) Act, 1974.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall be deemed to have come into force from the date of commencement of the Himachal Pradesh Tenancy and Land Reforms Act, 1972.

8 of 1974

2. In section 2 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (hereinafter referred to as the principal Act), the following amendments shall be carried out, namely:—

8 of 1974

Amendment
of section 2.

(a) after clause (3), the following new clause “(3-A)” shall be inserted, namely:—

“(3-A) ‘Bank’ has the same meaning as assigned to it in the Himachal Pradesh Agricultural Credit Operation and Miscellaneous Provisions (Banks) Act, 1972;”;

(b) Explanation I occurring below clause (4) (iv) shall be deleted and the figure “II” assigned to explanation II shall be deleted;

(c) in clause (17)—

(i) in sub-clause (i), the words “recorded as such in the revenue record” shall be deleted;

(ii) in para (a) of sub-clause (ii) the word “mere” shall be inserted before the word “mortgagee”;

(iii) in para (b) of sub-clause (ii) for “comma” and the word “or” occurring at the end, a “semi-colon” shall be substituted; and

(iv) para (c) of sub-clause (ii) shall be deleted.

7 of 1973

- Deletion of section 12. 3. Section 12 of the principal Act shall be deleted.
- Amendment of section 20. 4. After sub-section (2) of section 20 of the principal Act, the following sub-section (3) shall be added, namely:—
 “(3) It shall be an offence for a landowner to collect rent more than the maximum rent prescribed under sub-section (1) and he shall, on conviction by a magistrate, be liable to imprisonment which may extend to six months or punishable with fine which may extend to one thousand rupees or with both.”
- Amendment of section 24. 5. In section 24 of the principal Act,—
 (a) for sub-section (5), the following sub-section shall be substituted, namely:—
 “(5) It shall be an offence for a landowner to collect from a tenant any rent of which payment has been remitted, or is under suspension, and he shall, on conviction by a magistrate, be liable to imprisonment which may extend to six months or punishable with fine which may extend to one thousand rupees or with both.”;
 (b) sub-section (7) shall be omitted.
- Amendment of section 25. 6. In sub-section (2) of section 25 of the principal Act, for the words “one hundred rupees”, the words “from rupees five hundred to rupees two thousand” shall be substituted.
- Amendment of section 30. 7. Sub-section (5) of section 30 of the principal Act shall be deleted.
- Amendment of section 31. 8. For section 31 of the principal Act, the following section shall be substituted, namely:—
 “31. *Relinquishment*.—No relinquishment of a tenancy shall be made by a tenant in favour of a landowner. However, if a tenant wants to make a voluntary surrender of his tenancy land, the same shall be in favour of the State Government. The State Government shall have right to induct any suitable tenant or landless agricultural labourer to the relinquished land in the manner to be prescribed.”.
- Deletion of sections 32 and 33. 9. Sections 32 and 33 of the principal Act, shall be deleted.
- Amendment of section 34. 10. For clause (d) of sub-section (1) of section 34 of the principal Act, the following clauses (d) and (dd) shall be substituted, namely:—
 “(d) that he holds his tenancy from a person who created such tenancy within a period of six months before he became a member of the ~~Ar.~~ Forces or while he was serving in the Armed Forces

and wants to cultivate it himself on his ceasing to be a member of the Armed Forces;

(dd) that he holds his tenancy on the land comprising the share of a member of the Armed Forces covered by clause (e) of sub-section (8) of section 104 and who wants to cultivate it himself on his ceasing to be a member of the Armed Forces:

Provided that such person or member of Armed Forces referred to in clauses (d) and (dd) above, as the case may be, shall be entitled to eject a tenant from such land upto a maximum of five acres in the prescribed manner:

Provided further that a tenant so ejected shall be restored to possession of the land if the landowner after ejecting him does not within one year cultivate it personally:

Provided also that if a tenant holding land from persons mentioned in clauses (d) and (dd) of this sub-section is also a member of the Armed Forces, the provision of first proviso shall not apply and the tenancy shall remain and the ejectment from the tenancy shall only be on the grounds given in clauses (a) to (c) of this sub-section."

11. Clause (k) of sub-section (1) of section 57 of the principal Act, shall be deleted.

Amendment
of section
57.

12. Clause (i) in Third Group of sub-section (3) of section 58 of the principal Act, shall be deleted.

Amendment
of section
58.

13. In sub-section (2) of section 89 of the principal Act, for the figure "74" occurring after the word "and" the figure "73" shall be substituted.

Amendment
of section
89.

14. At the end of section 95 of the principal Act, for the sign "." the sign ":" shall be substituted and thereafter the following proviso shall be added, namely:—

Amendment
of section
95.

"Provided that if the land is subject to a mortgage with a bank the mortgage debt shall be the first charge on the amount payable by the occupancy tenant."

15. In the end of sub-section (1) of section 99 of the principal Act, for the sign "." the sign ";" and the word "and" shall be substituted and thereafter the following words shall be added:—

Amendment
of section
99.

"the composite property as defined in the Evacuee Interest (Separation) Act, 1951, or the property vested in the Central Government under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954".

16. For section 104 of the principal Act, the following section shall be

Substitution
of section
104.

substituted, namely:—

“104. *Right of tenant other than occupancy tenant to acquire interests of landowner.*—(1) Notwithstanding anything to the contrary contained in any law, contract, custom or usage for the time being in force, on and from the commencement of this Act, if the whole of the land of the landowner is under non-occupancy tenants, and if such a landowner has not exercised the right of resumption of tenancy land at any time since January 26, 1955, under any law as in force:—

- (i) such a landowner shall be entitled to resume before 1st September, 1974, in the manner prescribed, either one and a half acres of irrigated or three acres of unirrigated tenancy land from one or more than one tenants for his personal cultivation in the revenue estate he actually resides or within a radius of 10 kilometres from his residence and the right, title and interest (including contingent interest, if any) of the tenant or tenants, as the case may be, therefrom shall stand extinguished free from all encumbrances created by the tenant or tenants to that extent:

Provided that the landowner shall not be entitled to resume land from a tenant whose tenancy land plus land held by him as a landowner is likely to be reduced by the resumption to less than one and a half acres in case of irrigated or three acres in case of unirrigated land:

Provided further that the landowner shall not be entitled to resume from a tenant more than a quarter of the tenancy land;

- (ii) in case the landowner holds less than one and a half acres of irrigated or three acres of unirrigated land in his personal cultivation, he shall be entitled to resume tenancy land only to make up the land under his personal cultivation to the extent of one and a half acres of irrigated land or three acres of unirrigated land, as the case may be, subject to the other conditions laid down in this section;
- (iii) the right, title and interest in the rest of the tenancy land of the landowner, who is entitled to resume land under clauses (i) and (ii), shall vest in the tenant free from all encumbrances with effect from 1st September, 1974;
- (iv) in case the land under the tenancy is partly irrigated and partly unirrigated and the landowner intends to resume land of both these classes, he shall be entitled to do so in the ratio and manner to be prescribed;
- (v) in the event of any dispute between the landowner and the tenant with regard to the selection of the land for resumption, the first right of selection of land shall be that of the tenant who may exercise this right before 1st September, 1974, in the prescribed manner;

(vi) in case the tenant fails to exercise his right of selection of land within the period specified in sub-clause (v), the Land Reforms Officer shall determine his share after giving the parties an opportunity of being heard. In such a case also, the tenant shall be given the first choice to select the land.

(2) Where the landowner does not cultivate the land resumed by him under sub-section (1) personally, within one year from taking possession thereof, then such land shall vest in the State Government on payment of an amount at the rate of ninety-six times the land revenue plus rates and cesses and such land shall be disposed of by the State Government in such manner as may be prescribed. In such an event the first right to get such land shall be that of the tenant from whom the land was resumed by the landowner.

(3) All rights, title and interest (including a contingent interest, if any,) of a landowner other than a landowner entitled to resume land under sub-section (1), shall be extinguished and all such rights, title and interest shall with effect from September 1, 1974, vest in the tenant free from all encumbrances:

Provided that if a tenancy is created after the commencement of this Act, the provision of this sub-section shall apply immediately after the creation of such tenancy.

(4) Whenever a dispute arises whether a person cultivating the land of a landowner, is a tenant or not, the burden of proving that such a person is not a tenant of the landowner shall be on the latter.

(5) The landowner whose rights, title and interest are extinguished under this section, shall be entitled to receive an amount at the rate of ninety-six times the land revenue plus rates and cesses payable either in lump sum or in such number of instalments not exceeding ten during a period not exceeding five years as may be prescribed:

Provided that if the tenant makes a default in the payment of any instalment of the amount the same shall be recoverable as an arrear of land revenue:

Provided further that if the land for which the amount is to be paid under this section is subject to a mortgage debt from a bank, the mortgage debt will be the first charge on the amount payable for such land:

Provided also that the tenant shall not be liable to pay the amount to the landowner for the acquisition of ownership rights in the tenancy land which is equal in area to that of his tenancy land resumed by the landowner under clauses (i) and (ii) and the extinguishment of rights, title and interest of the tenant in the land resumed by the landowner shall be deemed to be the amount therefor.

(6) Save as otherwise provided in section 114, every decision of the Land Reforms Officer, under this section, shall be binding on all persons claiming an interest in a holding notwithstanding the fact that any such person has not appeared or participated in the proceedings before the Land Reforms Officer or any other revenue authority.

(7) The provisions of the foregoing sub-sections shall apply to evacuee land as defined in the Administration of Evacuee Property Act, 1950, to composite property as defined in the Evacuee Interest (Separation) Act, 1951, or the property vested in the Central Government under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, with effect from such date as the State Government, by notification, in the Official Gazette, specify.

31 of 1950
65 of 1951

44 of 1954

(8) Save as otherwise provided in sub-section (9), nothing contained in sub-sections (1) to (6) shall apply to a tenancy of a landowner during the period mentioned for each category of such landowners in sub-section (9) who,—

- (a) is a minor or unmarried woman, or if married, divorced or separated from husband or widow; or
- (b) is permanently incapable of cultivating land by reason of any physical or mental infirmity; or
- (c) is a serving member of the Armed Forces; or
- (d) is the father of the person who is serving in the Armed Forces, upto the extent of inheritable share of such a member of the Armed Forces on the date of his joining the Armed Forces, to be declared by his father in the prescribed manner.

(9) In the case of landowners mentioned in clauses (a) to (d) of sub-section (8), the provisions of sub-sections (1) to (6) shall not apply,—

- (a) in case of a minor during his minority and in case of other persons mentioned in clauses (a) and (b) of sub-section (8) during their life time;
- (b) in case of persons mentioned in clauses (c) and (d) of sub-section (8), during the period of their service in the Armed Forces subject to resumption of land by such persons to the extent mentioned in first proviso to clauses (d) and (dd) of sub-section (1) of section 34.”.

Amendment
of section
105.

17. In section 105 of the principal Act,—

- (a) for the word “compensation” or for the words “amount of compensation” wherever they occur, the word “amount” shall be substituted;
- (b) for the sign “.” occurring at the end, the sign “:” shall be substituted and thereafter the following proviso shall be inserted, namely:—

“Provided that the amount so determined shall not exceed 50% of the market price of such building and structure.”

Amendment
of section
106.

18. (1) The existing section 106 of the principal Act shall be renumbered as sub-section (1) and for the words “amount of compensation” or for the word “compensation” wherever they occur therein, the word

“amount” shall be substituted and thereafter the following sub-section (2) shall be added, namely:—

“(2) If the amount payable relates to the land mortgaged with a Bank or other lending institution or agency, then the priority of claiming such amount against mortgage money shall be that of the Bank, lending institution or agency, as the case may be.”.

19. In sections 107, 109, 110 and 111 of the principal Act, for the word “compensation” or for the words “amount of compensation” wherever they occur therein, the word “amount” shall be substituted.

Amendment
of sections
107, 109,
110 & 111.

20. In second proviso of section 113 of the principal Act, for the words, brackets and figures “Land Mortgage Bank or with new banks constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970” the word “Bank” shall be substituted.

Amendment
of section
113.

21. In clause (f) of sub-section (2) of section 118 of the principal Act, for the words, bracket and figures, “new Banks constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970” the words “a Bank” shall be substituted.

Amendment
of section
118.

22. In sub-section (4) of section 119 of the principal Act, for the sign “:” the sign “.” shall be substituted and thereafter the following proviso shall be added, namely:—

Amendment
of section
119.

“Provided that the vestment of land in the State Government shall not affect the rights of a tenant in such land.”.

23. In section 121 of the principal Act, for the existing clause (a), the following clause shall be substituted, namely:—

Amendment
of section
121.

“(a) landless agricultural labourers and co-operative farms of such labourers and of landless agricultural labourers belonging to Scheduled Castes and Scheduled Tribes,”.

24. The Himachal Pradesh Tenancy and Land Reforms (Amendment) Ordinance, 1974 is hereby repealed:

Repeal and
savings

Provided that anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Tenancy and Land Reforms Bill, 1972 (Bill No. 32 of 1972) passed by the Legislative Assembly of Himachal Pradesh on December 22, 1972, after the assent of President of India was published in Raj patra, Himachal Pradesh, as Act No. 8 of 1974. The Government of India suggested some amendments in the said Act. Accordingly the amendments were effected in the said Act, by Ordinance No. 4 of 1974 promulgated by the Governor of Himachal Pradesh. This Bill seeks to replace the said Ordinance.

SIMLA :
The 3rd April, 1974.

DES RAJ MAHAJAN,
Minister-in-charge.

FINANCIAL MEMORANDUM

Under clause 8 of the Bill, the relinquishment of Tenancy Land by a tenant is permissible only in favour of the Government. After such relinquishment in favour of the Government, the Government would acquire proprietary rights under section 104 of the principal Act on payment of the amount at prescribed rates. This amount cannot be estimated at this stage.

MEMORANDUM ON DELEGATED LEGISLATION

NIL

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION

(N. 130 of the Revenue Department File No. 10-32/72-Rev. A.).—The Governor, Himachal Pradesh having been informed of the subject matter of the Himachal Pradesh Tenancy and Land Reforms (Amendment) Bill, 1974, recommends under Article 207 of the Constitution of India the introduction and consideration of the Bill in the Legislative Assembly.

Simla-4, the 9th April, 1974

No. 10-4/74-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, the Himachal Pradesh Land Revenue (Surcharge) Bill, 1974 (Bill No. 9 of 1974), after having been introduced in the Legislative Assembly on 9th April, 1974, is hereby published in the gazette.

S. S. KANWAR,
Secretary.

Bill No. 9 of 1974.

THE HIMACHAL PRADESH LAND REVENUE (SURCHARGE) BILL, 1974

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to provide for the levy and payment of surcharge on land revenue in the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Land Revenue (Surcharge) Act, 1974.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions

(a) 'landowner' shall have the same meaning as is assigned to it in the Punjab Land Revenue Act, 1887 or the Himachal Pradesh Land Revenue Act, 1954, as the case may be, and includes a mortgagee with possession;

(b) 'land revenue' shall have the same meaning as is assigned to it in the Punjab Land Revenue Act, 1887 or the Himachal Pradesh Land Revenue Act, 1954, as the case may be; and

(c) all other words and expressions used, but not defined in this Act, shall have the same meanings as are assigned to them in the Punjab Land Revenue Act, 1887 or the Himachal Pradesh Land Revenue Act, 1954, as the case may be.

3. (1) With effect from Rabi harvest of the agricultural year, 1973-74 and notwithstanding anything to the contrary contained in the Punjab Land Revenue Act, 1887 or the Himachal Pradesh Land Revenue Act, 1954, every landowner who pays land revenue shall be liable to pay surcharge thereon to the extent of,—

Levy of
surcharge.

(a) in the areas where land settlements have not been done during the last 40 years,—

(i) on land revenue upto rupees fifteen .. 50 per cent

(ii) on land revenue upto rupees twenty-five—

on first rupees fifteen .. 50 per cent

on next rupees ten .. 75 per cent

(iii) on land revenue upto rupees fifty—

on first rupees fifteen .. 50 per cent

on next rupees ten .. 75 per cent

on next rupees twenty-five .. 100 per cent

(iv) on land revenue exceeding rupees fifty—

on first rupees fifteen .. 50 per cent

on next rupees ten .. 75 per cent

on next rupees twenty-five .. 100 per cent

on the remaining amount .. 125 per cent;

(b) in the areas where land settlements have been conducted during the last 40 years:—

(i) on land revenue—upto rupees fifteen	..	25 per cent
(ii) on land revenue upto rupees twenty-five—		
on first rupees fifteen	..	25 per cent
on next rupees ten	..	50 per cent
(iii) on land revenue upto rupees fifty—		
on first rupees fifteen	..	25 per cent
on next rupees ten	..	50 per cent
on next rupees twenty-five	..	75 per cent
(iv) on land revenue exceeding rupees fifty—		
on first rupees fifteen	..	25 per cent
on next rupees ten	..	50 per cent
on next rupees twenty-five	..	75 per cent
on the remaining amount	..	100 per cent.

(2) If in a district or any part thereof, the land revenue is re-assessed as a result of settlement in such a district or a part thereof after the commencement of this Act, then the rates of surcharge prescribed in clause (b) of sub-section (1) of this section shall apply to such a district or any part thereof, as the case may be, from such harvest of the agricultural year as may be notified by the State Government in this behalf in the Official Gazette:

Provided that the levy of surcharge shall not have the effect of adding to the value of any Jagir or any assignment of land revenue.

(3) Where the land revenue is remitted or suspended, the surcharge payable under this Act shall be remitted or remain suspended, as the case may be.

Submission
of returns.

4. (1) A landowner who is liable to pay surcharge under this Act and whose land is situated within the jurisdiction of more than one Patwari, shall within such time as may be prescribed, give written information of the details of the total land revenue payable by him to the Patwari in whose jurisdiction he holds land with the largest land revenue and shall also submit a copy thereof to the Tehsildar having jurisdiction.

(2) The provisions of sub-section (1) of this section shall apply *mutatis mutandis* to a landowner who becomes liable to pay surcharge under this Act as a result of acquisition of land by purchase or inheritance or by bequest or by gift or by exchange or by mortgage or in any other manner whatsoever (under any law for the time being in force in the State of Himachal Pradesh) after the commencement of this Act and in his case, the period of return shall be thirty days from the date of such acquisition.

Failure to
submit in-
formation.

5. (1) If a landowner fails to furnish the information required under section 4 or furnishes the information which is wrong in material particulars, the Tehsildar of the Tehsil shall make assessment of the surcharge payable by the landowner after collecting the required information in the manner to be prescribed.

(2) A landowner who fails to furnish the information required under section 4 or furnishes the information which is wrong in material particulars, he may be charged a penalty upto twelve times the amount of surcharge recoverable from him under this Act, by the Tehsildar.

Recovery of
surcharge.

6. The surcharge and the amount of penalty, if any, shall be recoverable as arrears of land revenue.

7. (1) The State Government may, by notification in the Official Gazette subject to previous publication, make rules for carrying out the purposes of this Act. Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature while it is in session for a total period of seven days which may be comprised in one session or two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislature requires any modification in the rule or desires that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity, of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

With a view to mobilize resources to finance the State's Fifth Five-Year Plan, it is considered appropriate to levy a graduated surcharge on the existing land revenue rates prevailing in the Pradesh with two sets of rates. One for the areas where land settlements have not taken place during the last forty years and the other for the areas where settlements have been conducted during the last forty years. A 25% difference of surcharge is proposed to distinguish these two types of areas, because in the areas where land settlements are over-due, 25% more surcharge has been proposed than to the areas where settlements have been done within the last forty years, as land revenue re-assessment in such areas have already been raised by 25% which is permissible within the provisions of the Land Revenue enactments in force. This Bill seeks to achieve the aforesaid object.

SIMLA:
The April, 1974.

DES RAJ MAHAJAN,
Minister-in-charge.

FINANCIAL MEMORANDUM

At the rates in clause 3 of the Bill, an additional income of about Rs. 15 lakhs annually is expected. The levy and collection of the surcharge will be done by the existing staff of the Revenue Department and no additional expenditure on this account is involved.

MEMORANDUM ON DELEGATED LEGISLATION

Under clause 7 of the Bill, the State Government is empowered to make rules for carrying out the purposes of the Bill. This delegation is normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

(N/5 OF THE REVENUE DEPARTMENT FILE NO. 10-16/74-REV-A)

The Governor, Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Land Revenue (Surcharge) Bill, 1974, recommends under Article 207 of the Constitution of India to the introduction and consideration of the Bill in the Legislative Assembly.

Simla-4, the 9th April, 1974

No. 10-8/74-VS.—In pursuance of rule 135 of Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Business, the Himachal Pradesh Land Holding Tax Bill, 1974 (Bill No. 8 of 1974), after having been introduced in the Assembly on 9th April, 1974, is hereby published in the gazette.

S. S. KANWAR,
Secretary.

THE HIMACHAL PRADESH LAND HOLDINGS TAX BILL, 1974

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A BILL

to provide for the levy and collection of tax on land holdings.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Land Holdings Tax Act, 1974.

Short title,
extent, com-
mencement
and applica-
tion.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification, specify.

(4) The provisions of this Act shall not apply to—

- (a) lands held by the State Government or the Central Government;
- (b) lands held by local authorities;
- (c) lands held by Himachal Pradesh University; and
- (d) lands held by the Bhudan Yagna Board established under the law in force in the State of Himachal Pradesh.

2. In this Act, unless the context otherwise requires,—

Definitions.

- (a) “assessee” means a person by whom the land holdings tax is payable under this Act;
- (b) “Assessing Authority” means an officer appointed to perform the functions of the Assessing Authority under this Act;
- (c) “banjar land” means the land recorded as such in the record of the revenue estate;
- (d) “Commissioner” means an officer appointed to perform the functions of the Commissioner under this Act;
- (e) “Deputy Commissioner” means an officer appointed to perform the functions of the Deputy Commissioner under this Act;
- (f) “family”, in relation to a person, means his or her spouse and their children who have not completed the age of eighteen years;

Explanation.—A married daughter shall not be treated as a child.

(g) “financial year” means the year beginning on the 1st April and ending on the 31st March next following;

(h) “Financial Commissioner” means an officer appointed to perform the functions of the Financial Commissioner under this Act;

(i) “firm”, “partner” and “partnership” have the same meanings respectively as in the Indian Partnership Act, 1932;

(j) “land” means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture and includes,—

- (a) the sites of buildings and other structure on such land,
- (b) orchards,
- (c) ghasnies,
- (d) banjar land,
- (e) private forests, and
- (f) tea gardens;

- (k) "land holding" shall have the same meaning as is assigned to it in section 3;
- (l) "land holding tax" means the tax levied and charged under section 6 and the same shall hereinafter be referred to as the tax ;
- (m) "land revenue" means revenue assessed under any law for the time being in force or assessable under the Himachal Pradesh Land Revenue Act, 1954, or the Punjab Land Revenue Act, 1887, as the case may be;
- (n) "orchard" means a compact area of land, having fruit bearing trees grown thereon in such number that they preclude, or when fully grown would preclude, a substantial part of such land from being used for any agricultural purpose;
- (o) "person" means any individual or association of individuals owning or holding property for himself or for any other or partly for his own benefit and partly for another, either as owner, lessee, tenant, mortgagee, trustee, receiver, common manager, administrator or executor or in any capacity recognised by law, and includes a Hindu-undivided family, a firm or a company, an association of individuals, whether incorporated or not, and any institution capable of holding property;
- (p) "private forests" means a forest which is not the property of the Government or over which the State has no proprietary rights or to the whole of the forest produce of which the State is not entitled;
- (q) "prescribed" means prescribed by rules made under this Act ;
- (r) "rateable area" means a unit of land adopted for the purposes of this Act in accordance with the conversion table given in section 5.
- (s) "schedule" means a schedule appended to this Act;
- (t) "State " means the State of Himachal Pradesh;
- (u) "tax circle" or "circle" means the tax circle notified under sub-section (3) of section 4;
- (v) "tea garden" means the area under tea plantation and includes such other area necessary for purposes subservient to the plantation as may be prescribed; and
- (x) all other words and expressions used herein and not defined in this Act, but defined in the Himachal Pradesh Tenancy and Land Reforms Act, 1972 or the Himachal Pradesh Land Revenue Act, 1954, or the Punjab Land Revenue Act, 1887, shall have the same meanings as are assigned to them in any of these Acts.

Land hold-
ing.

3. For the purposes of this Act, "land holding" means the total land in the State in possession of a person whether as an owner, mortgagee, lessee, tenant or in any other lawful capacity and when such a person is not the sole member of the family, the aggregate of land possessed by all the members of the family in any of the capacities aforesaid.

Taxing
authorities
and tax
circles.

4. (1) For carrying out the purposes of this Act, the State Government may appoint a Financial Commissioner and such number of Commissioners, Deputy Commissioners and Assessing Authorities as it may deem fit.

(2) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code 1860.

(3) For the purpose of this Act, the State Government shall, by notification in the Official Gazette, divide the State into tax circles and may alter the limits or the number of such circles and shall also determine the headquarters of each such tax circle.

6 of 1954

17 of 1887

8 of 1974

6 of 1954

17 of 1887

45 of 1860

5. For the purposes of this Act, the land holding of a person shall be converted into rateable acres in the prescribed manner in accordance with the following conversion table:—

Conversion
into rateable
acres.

- | | |
|---|----------------------|
| (i) one ordinary acre of orchard growing apples, lichies, grapes, cherry or kalmi mangoes and which has attained the age of ten years or stage of commercial bearing whichever is earlier | = 5 rateable acres. |
| (ii) one ordinary acre of orchard growing fruits other than those mentioned in (i) above and which has attained the age of five years or stage of commercial bearing whichever is earlier | = 3 rateable acres. |
| (iii) one ordinary acre of irrigated land growing two crops a year (both irrigated) | = 2 rateable acres. |
| (iv) one ordinary acre of irrigated land growing one irrigated crop in a year | = 1½ rateable acres. |
| (v) one ordinary acre of unirrigated land under cultivation. | = 1 rateable acre. |
| (vi) one ordinary acre of orchard other than covered by items (i) and (ii) above | = 1 rateable acre. |
| (vii) one acre of private forest land | = 1 rateable acre. |
| (viii) one acre of ghasni | = ½ rateable acre. |
| (ix) one acre of tea garden | = 1 rateable acre. |
| (x) one acre of banjar land | = ½ rateable acre. |

6. (1) There shall be levied and charged for each financial year a tax to be called the land holdings tax on the land holding of a person as held by him at the commencement of the financial year under assessment and at the rates specified in Schedule 'A'.

Levy of tax

(2) The rates specified in Schedule 'A' shall continue for a period of 5 years commencing from 1st April, 1974:

Provided that the State Government may, by notification in the Official Gazette, from time to time, reduce or enhance the rates of tax generally or in respect of any specified area or class of persons, subject, however, to the condition that such reduction or enhancement shall, in no case, be more than 25% of the rates specified in Schedule 'A':

Provided further that the State Government may also by a notification in the Official Gazette amend the limit of exemption of 20 rateable acres laid down in the Schedule subject to the condition that such amendment shall not vary the exemption limit by more than 25 per cent.

(3) Any land revenue and surcharge thereon payable by an assessee in respect of his land holdings under the provisions of any law for the time being in force, shall be deducted from the tax leviable in respect of such holdings under this Act.

7. (1) The tax chargeable under section 6 shall be payable by a person in two equal half-yearly instalments unless otherwise ordered by the Assessing Authority.

Tax by
whom and
when pay-
able.

(2) Where an assessee dies without paying the tax chargeable in respect of his land holding, the amount of unpaid tax shall be recoverable from his heirs and legal representatives succeeding to his estate and the liability of such heirs and legal representatives shall be several as well as joint.

(3) Where an assessee transfers his land holding without paying the tax chargeable in respect of the same for any previous period, or for the financial year in which the transfer takes effect, the Assessing Authority may recover the whole or any part of the tax chargeable, from the transferee ; provided however, that the transferee shall be entitled to realize the amount so paid from his transferer.

Liability of
Court of
Wards, Ad-
ministrators-
General etc.

8. (1) In the case of land holding taxable under this Act which the Court of Wards, Administrator-General or Official Trustee or any receiver, administrator, executor, trustee, guardian or manager appointed by or under any law or by an order of court or by written agreement is entitled to hold on behalf of any person, the tax shall be levied upon and recoverable from the Court of Wards, Administrator-General, Official Trustee or from such receiver, administrator, executor, trustee, guardian or manager, as the case may be, in like manner, and to the same amount as it would be leviable upon and recoverable from the person on whose behalf such land holding is held, and all the provisions of this Act shall apply accordingly.

(2) Nothing contained in sub-section (1) shall prevent either the direct assessment of the person on whose behalf the land holding is held or the recovery from such person of the tax payable in respect of such land holding.

Non-resi-
dent.

9. (1) In the case of any person residing outside the State his land holding shall be chargeable to tax either in his name or in the name of his agent and in the latter case, such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such tax.

(2) Any person employed by or on behalf of a person residing out of the State or through whom the non-resident person is in possession of the land holding, upon whom the Assessing Authority has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall for purposes of this Act, be deemed to be such agent :

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Assessing Authority as to his liability.

Submission
of returns.

10. (1) Every person whose land holding at the commencement of a financial year exceeds 20 rateable acres, shall, not later than 30th June of the same year, be liable to furnish a return to the Assessing Authority in form No. (i) given in Schedule 'B', provided that the Assessing Authority may extend the above date for reasons to be recorded.

(2) The return under sub-section (1) shall be furnished to the Assessing Authority in whose jurisdiction the land holding is situate and in case it is situate within the jurisdiction of more than one Assessing Authorities, the return shall be furnished to the Assessing Authority in whose jurisdiction, the largest portion of the land holding is situate.

Power of
Assessing
Authority to
call for re-
turns.

11. (1) The Assessing Authority may, by notice in the prescribed form call upon any person holding land within its jurisdiction, to furnish a return referred to in section 10.

(2) Whenever a return furnished in response to notice under sub-section (1) shows that the largest portion of the land holding of the person, furnishing such return, is situate within the jurisdiction of some other Assessing Authority, the return shall be forwarded to such other Assessing Authority under intimation to the person concerned.

Procedure
for levy.

12. (1) After considering the returns furnished under sections 10 and 11 and holding such enquiry as it may deem fit, the Assessing Authority shall prepare, check and display or cause to be prepared, checked and

displayed a list in form No. (ii) given in Schedule 'B', in respect of all the assesseees in its tax circle.

(2) Any person having any objection in regard to any entry in the list prepared and displayed under sub-section (1) may within a period of one month from the date of display of such list, file such objections before the Assessing Authority.

(3) The Assessing Authority shall dispose of the objections in a summary manner at a prominent place in the estate at a specified date and time to be notified in the manner prescribed. The objector may appear personally or through an authorised person before the Assessing Authority and make oral submission in support of the objections if he so desires.

(4) The list prepared under sub-section (1) shall be approved or modified in the presence of the persons and the same shall be announced at the spot.

(5) The amount of tax levied on a land holding, on the basis of the list prepared under sub-section (4), shall not be varied as a result of any addition/reduction in the land holding due to inheritance, transfer or otherwise.

13. (1) Whenever there exist circumstances to apprehend that the total produce of a land holding in any financial year is likely to be damaged to an extent of more than 33% of its normal produce, the assessee or his agent shall in the prescribed form issue notice of such circumstances to the Assessing Authority in whose tax circle such damage is apprehended. Remission.

(2) Immediately on receipt of a notice under sub-section (1), the Assessing Authority shall forward the same to the Tehsildar/Naib-Tehsildar or the Collector of the area, depending upon whether the apprehended damage, as reported by the assessee, is upto 50% or more than 50%.

(3) Within one month of the receipt of notice under sub-section (1) in the office of the Assessing Authority, the Tehsildar/Naib-Tehsildar or the Collector, as the case may be, shall, in the prescribed manner, inspect the land holding, mentioned in the notice, and submit his report about the damage found to the Deputy Commissioner and the Commissioner respectively.

(4) The Deputy Commissioner or the Commissioner, as the case may be, after considering the report received under sub-section (3) and holding such further enquiry as considered necessary, shall order remission of the tax for that financial year as under:—

(i) In case of damage upto 33%	Nil;
(ii) In case of damage exceeding 33% but not exceeding 50%	Not exceeding 25% of the tax;
(iii) In case of damage exceeding 50% but not exceeding 75%	Not exceeding 50% of the tax;
(iv) In case of damage exceeding 75%	100%:

Provided that the Deputy Commissioner shall not be competent to order remission exceeding 25%.

The procedure adopted by the Commissioner shall be such as may be prescribed.

(5) Any person aggrieved by the order of the Deputy Commissioner or the Commissioner, made under sub-section (4), may, within a period of 30 days from the date of such order, prefer an appeal, in case it is against the order of the Deputy Commissioner to the Commissioner and in case it is against the order of the Commissioner to the Financial Commissioner, in such form and manner, as may be prescribed:

Provided that the Commissioner or the Financial Commissioner, as the case may be, may entertain the appeal even after the expiry of the said period of 30 days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal on any earlier day. The Commissioner or the Financial Commissioner, as the case may be, may pass such order on appeal as he thinks fit and his order shall be final subject to the provisions of sub-section (4) of section 14.

Appeal and
revision.

14. (1) Any person aggrieved by an order of the Assessing Authority made under sub-section (4) of section 12 may within a period of thirty days from the date of such order, prefer an appeal to the Deputy Commissioner in such form and manner as may be prescribed:

Provided that the Deputy Commissioner may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The Deputy Commissioner may pass such order on appeal as he thinks fit.

(3) Any person aggrieved by an order of the Deputy Commissioner made under sub-section (2) may, within a period of sixty days from the date of order, file a revision petition before the Commissioner so as to challenge the legality or propriety of such order and the Commissioner may pass such order as he may deem fit.

(4) Notwithstanding anything contained in the foregoing sub-sections, the Financial Commissioner may, *suo moto*, at any time, call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order and may pass such order in relation thereto as he may deem fit :

Provided that no order shall be passed to the disadvantage of any person unless he has been afforded an opportunity of being heard.

Review.

15. (1) An authority under the Act may, either of its own motion or on the application of the party interested, review, and on so reviewing, modify, reverse or confirm any order passed by it or by any of its predecessors in office :

Provided as follows:—

- (a) when an Assessing Authority or the Deputy Commissioner proposes to review any order, whether passed by it or him or by any of its or his predecessors in office, it or he shall first obtain the sanction of the Deputy Commissioner or the Commissioner, as the case may be;
- (b) an application for review of an order shall not be entertained unless it is made within ninety days from the date of passing of the order;
- (c) an order shall not be modified or reversed unless the affected party has been given a reasonable opportunity of being heard ; and

(d) an order against which an appeal has been preferred shall not be reviewed.

(2) No appeal shall lie from an order refusing to review any order.

(3) No appeal or application for revision or review made by any person under the Act shall be entertained by the competent authority unless amount of tax demanded has been paid by such person.

16. Clerical arithmetical errors in any order passed by any officer other than the Assessing Authority, arising from any accidental slip or omission may, within a period of ninety days from the date of such order, either of his own motion or on an application received in this behalf from any person, be corrected by such officer: Correction of clerical errors.

Provided that no order shall be passed to the disadvantage of any person unless he has been afforded an opportunity of being heard.

17. (1) The assessee shall deposit the amount of tax payable by him under the Act in the manner as may be prescribed by the State Government in this behalf. Payment of tax.

(2) When the payment of any tax under this Act falls due, the amount may be recovered as if it were an arrear of land revenue.

18. No civil court shall have jurisdiction to entertain or decide any matter, which an officer or authority is empowered by or under this Act to dispose of or take cognizance of, or, in which an officer or authority exercises any powers vested in him or it by or under this Act. Bar of jurisdiction.

19. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of any land holding belonging to any other person is hereby indemnified for the deduction, retention or payment thereof. Indemnity.

5 of 1908

20. A notice or requisition under this Act may be served on the person therein named in the manner as prescribed in the Code of Civil Procedure for the service of summons. Manner of service of notice.

21. (1) The State Government may, by notification and subject to the previous publication, make rules for carrying out the purposes of this Act. Power to make rules.

(2) Every rule made under sub-section (1) shall be laid, as soon as may be after it is made, before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the legislature requires any modification in the rule or desires that the rule shall not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty. Power to remove difficulties.

23. The State Government may, by notification, make addition to, or omission from, or otherwise amend schedule 'B', and thereupon the schedule 'B' shall be deemed to be amended accordingly. Power to amend Schedule 'B'.

SCHEDULE 'A'

(See section 6)

RATES OF LAND HOLDING TAX

	<i>In case of a person who is the sole mem- ber of the family</i>	<i>In case of others</i>
(i) on the first 20 rate- able acres.	Nil	Nil
(ii) on each rateable acre exceeding 20 acres but not exceeding 30.	At the rate of Rs. 30 per rateable acre.	At the rate of Rs. 20 per rateable acre.
(iii) on each rateable acre exceeding 30 but not exceeding 45.	At the rate of Rs. 45 per rateable acre.	At the rate of Rs. 30 per rateable acre.
(iv) on each rateable acre exceeding 45 but not exceeding 60.	At the rate of Rs. 60 per rateable acre.	At the rate of Rs. 40 per rateable acre.
(v) on each rateable acre exceeding 60 but not exceeding 75.	At the rate of Rs. 75 per rateable acre.	At the rate of Rs. 50 per rateable acre.
(vi) on each rateable acre exceeding 75 but not exceeding 100.	At the rate of Rs. 100 per rateable acre.	At the rate of Rs. 75 per rateable acre.
(vii) on each rateable acre exceeding 100.	At the rate of Rs. 125 per rateable acre.	At the rate of Rs. 100 per rateable acre.

SCHEDULE 'B'

(See sections 10 and 12)

FORM NO. (i)

[sub-section (1) of section 10]

Before the Assessing Authority.....Circle.....

Return of land holding under sub-section (1) of section 10 of the Himachal Pradesh Land Holdings Tax Act, 1974.

- (i) Name of the person.
- (ii) Address of the person.
- (iii) Constitution of the person (whether individual, family, firm, company, registered society (etc.).
- (iv) In case of family, names of all the members thereof.

- (v) In case of firm, names and addresses of all the partners.
- (vi) Khasra Nos. and situation of the land included in the land-holding.
- (vii) Classification of different areas of land included in the land holding for the purposes of section 5 (give khasra Nos. and area of each category).
- (viii) Amount of land revenue and surcharge payable in respect of the land holding.
- (ix) Particulars of additions/reductions in the land holding during the preceding financial year and the manner thereof.
- (x) Remarks.

Verified that the information given above is correct to the best of my knowledge and belief.

Date.....

Signature.

Place.....

FORM NO. (ii)

[See sub-section (1) of section 12]

List of assesseees in.....Circle.

- (i) Name of the person.
- (ii) Address of the person.
- (iii) Constitution of the person (whether individual, family, firm, company, registered society etc.).
- (iv) In case of family, names of all the members thereof.
- (v) In case of firm, names and addresses of all the partners.

- (vi) Khasra Nos. and situation of the land included in the land holding.
- (vii) Classification of different areas of land included in the land holding for the purposes of section 5 (give khasra Nos. and area of each category).
- (viii) Total rateable acreage.
- (ix) Amount of land revenue and surcharge payable in respect of the land holding.
- (x) Amount of tax calculated at the rates given in Schedule 'A'.
- (xi) Net amount of tax payable after deducting land revenue and surcharge.
- (xii) Particulars of instalments in which the tax is payable.
- (xiii) Remarks.

Assessing Authority,
.....Circle.

STATEMENT OF OBJECTS AND REASONS

Enactment of this proposed Bill has become necessary for augmenting resources of this Pradesh for speedy execution of various agricultural development programmes. The tax proposed to be levied on land holdings will increase revenue from lands.

DES RAJ MAHAJAN,
Minister-in-charge.

SIMLA :

The April, 1974.

FINANCIAL MEMORANDUM

The revenue field staff which is already under heavy strain of work as a result of the implementation of land reforms law may have to be augmented. It has, therefore, been considered necessary to provide some nucleus staff in every district or a group of districts so as to ensure proper levy of the tax and its effective recovery. This will cost about rupees 2 lacs yearly. The income from this tax cannot be calculated unless rateable acreage of the affected persons is determined.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 21 of the Bill empowers the State Government to make rules for carrying out the purposes of this Bill. These rules shall, as soon as may be after they are made, be laid before the Legislative Assembly. The proposed delegation is quite essential for effective implementation of the provisions of the Bill and is normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

(Revenue Department file No. 10-16/74-Rev.—A.)

The Governor having been informed of the subject matter of the Himachal Pradesh Land Holdings Tax Bill, 1974, recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly of Himachal Pradesh.

Simla-4, the 22nd April, 1974

No. 10-1/74-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Himachal Pradesh Panchayati Raj (Amendment) Bill, 1974 (Bill No. 4 of 1974) after having been introduced on the 2nd April, 1974 is hereby published in the gazette.

S. S. KANWAR,
Secretary.

Bill No. 4 of 1974.

THE HIMACHAL PRADESH PANCHAYATI RAJ
(AMENDMENT) BILL, 1974

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

further to amend the Himachal Pradesh Panchayati Raj Act, 1968 (Act No. 19 of 1970).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Panchayati Raj (Amendment) Act, 1974.

Short title
and com-
mencement;

(2) It shall come into force at once.

2. In sub-section (1) of section 9 of the Himachal Pradesh Panchayati Raj Act, 1968 (hereinafter called the principal Act) the following amendments shall be made, namely:—

Amendment
of section 9.

(a) after sub-section (1) but before the existing provisos to this sub-section, the following new proviso shall be inserted, namely:—

“Provided that if one or more members cannot be so elected, even after all necessary steps in the prescribed manner have been taken in that direction, the Government may appoint the necessary number of duly qualified persons as members of the executive committee and the members so appointed shall hold office for a term co-terminus with the term of the elected members:”;

(b) in the second proviso so arranged the word “further” shall be added in between the words “Provided” and “that”.

3. For section 12 of the principal Act, the following section 12 shall be substituted, namely:—

Amendment
of section
12.

“12. Notwithstanding anything contained hereinbefore, if, after the executive committee is once established under section 9, any vacancy in that committee occurs in the manner laid down in the foregoing section, the remaining members shall continue to function as executive committee till such vacancy is filled.”

4. The Himachal Pradesh Panchayati Raj (Amendment) Ordinance, 1974 is hereby repealed.

Repeal and
savings.

Notwithstanding such repeal, anything done or any action taken under the aforesaid Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 4th February, 1974.

STATEMENT OF OBJECTS AND REASONS

Despite of the fact that the State Government has taken all necessary steps to conduct the elections of the executive committees of the Gram Sabhas, certain seats in different Gram Panchayats have remained unfilled. The existence of a valid Gram Panchayat or Panchayats is a condition precedent before the elections of Nyaya Panchayat or Panchayat Samitis can take place. "Gram Panchayat" as defined in section 3(1) of the Himachal Pradesh Panchayati Raj Act, 1968, means the executive committee of the Gram Sabha established under section 9 of that Act. Section 9 of the Act, in its terms, lays down that every Gram Sabha shall in the prescribed manner, elect from amongst its members an executive committee consisting of such number of persons, not being less than 7 or more than 15, as the Government may determine. The combined reading of these two provisions would suggest that the executive committee, which is to constitute Gram Panchayat, must consist of members elected by the Gram Sabha in the prescribed manner and the number of its members is to be such as determined by the Government, under section 9. Till all the members, as determined by the Government, are elected by the Gram Sabha in the prescribed manner, the executive committee and for that matter the Gram Panchayat cannot be said to have come into existence since such members are to collectively constitute the executive committee. Under these circumstances no elections either of the Nyaya Panchayat or of Panchayat Samiti can take place till the prescribed number of members of the executive committee has been duly elected, in the prescribed manner by the Gram Sabha.

Thus it is contemplated to amend sections 9(1) and 12 of the said Act. As these matters were of great importance and required immediate action and since the Legislative Assembly was not in session, so the amendments were made by means of an Ordinance (Ordinance No.1 of 1974). This Ordinance is required to be replaced by an amending Act. Hence this Bill,

SIMLA:
The 2nd April, 1974.

HARDYAL,
Minister-in-charge.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

STATEMENT OF PROVISIONS OF THE PRINCIPAL ACT
AFFECTED BY THIS AMENDING BILL

Section	Existing provisions	Provisions as it will stand after the enactment of the Act
1	2	3
9 (1)	<p>(1) Every Sabha shall, in the prescribed manner, elect from amongst its members an executive committee consisting of such number of persons not being less than seven or more than fifteen, as the Government may determine:</p> <p style="text-align: center;">* * * *</p>	<p>(1) Every Sabha shall, in the prescribed manner, elect from amongst its members an executive committee consisting of such number of persons not being less than seven or more than fifteen, as the Government may determine:</p> <p><u>Provided that if one or more members cannot be so elected, even after all necessary steps in the prescribed manner have been taken in that direction, the Government may appoint the necessary number of duly qualified persons as members of the executive committee and the members so appointed shall hold office for a term co-terminus with the term of the elected members:</u></p>
	<p>Provided that if no woman is elected as a Panch of any Sabha, the Gram Panchayat shall co-opt as such Panch, one woman member of the Sabha who is qualified to be elected as Panch, in the prescribed manner:</p>	<p>Provided further that if no woman is elected as a Panch of any Sabha, the Gram Panchayat shall co-opt as such Panch, one woman member of the Sabha who is qualified to be elected as Panch, in the prescribed manner:</p>
	<p>Provided further that every Gram Panchayat shall include two members of scheduled castes either elected or co-opted. If one member of scheduled caste is elected, the other scheduled caste member, who is otherwise qualified to be elected as Panch shall be co-opted. If two members of scheduled castes are already elected, no co-option of a scheduled caste member shall take place.</p>	<p>Provided further that every Gram Panchayat shall include two members of scheduled castes either elected or co-opted. If one member of scheduled caste is elected, the other scheduled caste member, who is otherwise qualified to be elected as Panch shall be co-opted. If two members of scheduled caste are already elected, no co-option of a scheduled caste member shall take place.</p>

1	2	3
12.	<p>If, for any reason, all members of a Gram Panchayat are not elected, the Gram Panchayat may function:</p> <p>Provided that not less than two-third members thereof stand duly elected but no co-option shall be done by such Gram Panchayat unless all its members are duly elected.</p>	<p>12. Notwithstanding anything contained hereinbefore, if, after the executive committee is once established under section 9, any vacancy in that committee occurs in the manner laid down in the foregoing section the remaining members shall continue to function as executive committee till such vacancy is filled.</p>

Simla-4, the 10th/11th April, 1974

No. 10-4/74-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Appropriation Bill, 1974 (Bill No. 3 of 1974) as introduced in the Legislative Assembly on the 10th April, 1974 is hereby published in the Government Gazette.

S. S. KANWAR,
Secretary.

Bill No. 3 of 1974.

THE HIMACHAL PRADESH APPROPRIATION BILL, 1974

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Himachal Pradesh for the services of the financial year, 1974-75.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Himachal Pradesh Appropriation Act, 1974. Short title.

2. From and out of the Consolidated Fund of the State of Himachal Pradesh there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate inclusive of sums specified in column 3 of the Schedule to the Himachal Pradesh Appropriation (Vote on Account) Act, 1974 to the sum of one hundred forty-two crores and twenty-one lakhs rupees towards defraying the several charges which will come in course of payment during the financial year, 1974-75 in respect of the services specified in column 2 of the Schedule.

Issue of a sum of Rs. 1,42,21,00,000 out of the Consolidated Fund of the State of Himachal Pradesh for the year 1974-75.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Himachal Pradesh by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the period mentioned in section 2 of the Act. Appropriation.

THE SCHEDULE
(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		Total
		Voted by the Legislative Assembly	Charged on the Consolidated Fund	
1	2	3	4	
		Rs.	Rs.	Rs.
1	Vidhan Sabha and Elections	29,49,000	51,000	30,00,000
2	Governor and Council of Ministers ..	19,20,000	6,30,000	25,50,000
3	Administration of Justice ..	30,47,000	9,53,000	40,00,000
4	General Administration ..	2,72,10,000	5,90,000	2,78,00,000
5	Land Revenue ..	1,44,50,000	—	1,44,50,000
6	Excise and Taxation ..	40,00,000	—	40,00,000
7	Police and Fire Protection ..	4,51,99,000	1,000	4,52,00,000
8	Education, Art and Cultural Affairs and Scientific Re- search ..	19,79,00,000	—	19,79,00,000
9	Medical and Family Planning ..	5,55,00,000	—	5,55,00,000
10	Public Works ..	15,24,00,000	—	15,24,00,000
11	Agriculture ..	7,42,00,000	—	7,42,00,000
12	Minor Irrigation ..	1,58,00,000	—	1,58,00,000
13	Soil and Water Conservation ..	1,77,50,000	—	1,77,50,000
14	Animal Husbandry and Dairy Development ..	2,28,00,000	—	2,28,00,000
15	Fisheries ..	18,00,000	—	18,00,000
16	Forest ..	7,26,00,000	—	7,26,00,000
17	Roads and Bridges ..	12,67,00,000	—	12,67,00,000
18	Supplies, Industries and Minerals ..	2,03,50,000	—	2,03,50,000
19	Social Security, Welfare and Jails ..	1,05,50,000	—	1,05,50,000
20	Public Health, Sanitation and Water Supply ..	4,36,50,000	—	4,36,50,000
21	Community Development ..	2,30,50,000	—	2,30,50,000
22	Co-operation ..	1,25,00,000	—	1,25,00,000
23	Food and Nutrition ..	12,03,50,000	—	12,03,50,000
24	Water and Power Development ..	4,00,00,000	—	4,00,00,000
25	Irrigation, Navigation, Drain- age and Flood Control ..	29,00,000	—	29,00,000
26	Stationery and Printing ..	55,00,000	—	55,00,000
27	Road Transport ..	5,36,50,000	—	5,36,50,000
28	Tourism ..	38,00,000	—	38,00,000
29	Labour and Employment ..	51,00,000	—	51,00,000
30	Housing ..	1,50,00,000	—	1,50,00,000
31	Urban Development ..	26,00,000	—	26,00,000

1	2	3	4
			Rs.
32	Other Administrative Services	1,10,00,000	— 1,10,00,000
33	Finance ..	1,60,00,000	19,21,00,000 20,81,00,000
34	Loans to Government Servants	55,50,000	— 55,50,000
	GRAND TOTAL	.. 1,22,77,75,000	19,43,25,000 1,42,21,00,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of Article 204(1) of the Constitution of India to provide for the appropriation out of the Consolidated Fund of the State of Himachal Pradesh of the moneys required to meet the expenditure Charged on the Consolidated Fund and other expenditure as Voted by the Legislative Assembly in respect of the estimated expenditure of the Government of Himachal Pradesh for the financial year, 1974-75.

Y. S. PARMAR,
Chief Minister.

SIMLA:
The 10th April, 1974.

RECOMMENDATION OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[Finance Department File No. 3-67/73-Fin. (A)]

The Governor, having been informed of the subject matter of the proposed Himachal Pradesh Appropriation Bill, 1974 recommends under Article 207 of the Constitution, the introduction in and consideration by the Legislative Assembly of the said Bill.

THE HIMACHAL PRADESH APPROPRIATION BILL, 1974

**A
BILL**

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Himachal Pradesh for the services of the financial year. 1974-75.

Y. S. PARMAR,
Chief Minister.

T. R. HANDA,
Secretary (Law).

SIMLA:
The 10th April, 1974.

